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AJMER STATE GOVERNMENT

(Law and Judicial Department)

Ajmer, the 30th June, 1956

The following Acts of the Ajmer Legislative Assembly received the assent of the President on the 25th June, 1956, and are hereby published for general information:—

**THE AJMER SHOPS AND COMMERCIAL
ESTABLISHMENTS ACT, 1956**

ACT No. IV OF 1956

An Act to consolidate the law relating to the conditions of work and employment in shops and commercial establishments.

BE it enacted by the Legislative Assembly of the State of Ajmer in the Seventh Year of the Republic of India as follows:—

CHAPTER I—PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Ajmer Shops and Commercial Establishments Act, 1956.

(2) It extends to the whole of the State of Ajmer.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint in this behalf.

(4) It shall apply, in the first instance, in the Municipal areas of Ajmer (including Paltan Bazar), Beawar, Bijainagar and Kekri and Cantonment area of Nasirabad and the State Government may, by notification in the official Gazette, direct that all or any other provisions of this Act shall apply to such other areas as may, by notification in the official Gazette, be specified.

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2. **Interpretation.**—(1) In this Act, unless there is anything repugnant in the subject or context—

- (a) “adult consumption unit” means the consumption unit of a male above the age of fourteen years, and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of .8 and .6 respectively of one adult consumption unit;
- (b) “apprentice” means a person aged not less than twelve years, who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment;
- (c) “closed” means not open for the service of any customer or for any business connected with the establishment;
- (d) “commercial establishment” means a commercial or trading or banking or insurance establishment, an establishment or administrative service in which the persons employed are mainly engaged in office work, hotel, restaurant, boarding or eating house, cafe or any other refreshment house, a theatre or any other place of public amusement or entertainment and includes such establishments as the State Government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Act;
- (e) “day” means the period of twenty-four hours beginning at mid-night:
Provided that in the case of an employee whose hours of work extend beyond mid-night, day means the period of twentyfour hours beginning from the time when such employment commences irrespective of mid-night;
- (f) “employee” means a person wholly or principally employed in, and in connection with, any establishment and includes an apprentice but does not include a member of the employer’s family. It also includes any clerical or other staff of a factory or industrial establishment who falls outside the coverage of the Factories Act, 1948;
- (g) “employer” means a person having charge of or owning or having ultimate control over the affairs of an establishment and includes the manager, agent or other person acting in the general management or control of an establishment;
- (h) “establishment” means a shop or commercial establishment;
- (i) “family” in relation to an employer means the husband or wife, son, daughter, father, mother, brother or sister, of such employer who lives with and is dependent on him;
- (j) “Inspector” means an Inspector appointed under this Act;

- (k) "leave" means leave provided for in Chapter IV of this Act;
- (l) "night" means a period of at least twelve consecutive hours which shall include the interval between 10 P.M. and 6 A.M.
- (m) "opened" means opened for the service of any customer or for any business connected with the establishment;
- (n) "prescribed" means prescribed by rules made under this Act;
- (o) "period of work" means the time during which an employee is at the disposal of the employer;
- (p) "prescribed authority" means the authority prescribed under the rules made under this Act;
- (q) "quarter" means the period of three months ending on the last day of March, June, September or December;
- (r) "register of establishments" means a register maintained for the registration of establishments under this Act;
- (s) "registration certificate" means a certificate showing the registration of an establishment;
- (t) "restaurant" means any premises in which is carried on principally or wholly the business of supplying meals or refreshment to the public or class of the public for consumption on the premises but does not include the restaurant attached to a theatre;
- (u) "shop" means any premises where any trade or business is carried on or where services are rendered to customers, and includes offices, store rooms, godowns or warehouses, whether in the same premises or otherwise, used in connection with such trade or business but does not include a commercial establishment or a shop attached to a factory where the persons employed in the shop are allowed the benefits provided for workers under the Factories Act, 1948;
- (v) "spread over" means the period between the commencement and the termination of the work of an employee on any day;
- (w) "State Government" means the Chief Commissioner, Ajmer;
- (x) "standard family" means a family consisting of the employee, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units;
- (y) "theatre" includes any premises intended principally or wholly for the presentation of moving pictures, dramatic performances or such other entertainments;

(z) "week" means the period of seven days beginning at midnight of Saturday or such other night as may be approved in writing for a particular area by the prescribed authority;

(za) "year" means a year commencing on the first day of January.

(2) The General Clauses Act, 1897 (X of 1897) applies for the interpretation of this Act as it applies for the interpretation of a Central Act.

3. **Exemptions.**—(1) Nothing in this Act shall apply to—

- (a) offices of or under the Central or State Governments or local authorities;
- (b) offices of lawyers;
- (c) establishments for the treatment or the care of the infirm or the mentally unfit;
- (d) persons occupying positions of management or employed in a confidential capacity;
- (e) persons whose work is inherently intermittent such as travellers or caretakers;
- (f) persons directly engaged in preparatory or complementary work such as clearing or forwarding clerks responsible for the despatch of goods;
- (g) fairs or bazars for sale of goods for charitable or other purposes for which no private profit is derived; and
- (h) libraries at which the business of lending books or periodicals is not carried on for purposes of gain other than that of making profits for charitable, philanthropic, religious or educational objects.

(2) The State Government may, by notification in the official Gazette, exempt either permanently or for any specified period, any establishment or class of establishments or persons or class of persons, to which or to whom this Act applies, from all or any of its provisions, subject to such conditions as the State Government deem fit.

CHAPTER II—REGISTRATION OF ESTABLISHMENTS

4. **Registration of Establishments.**—(1) Within the period specified in sub-section (3), the employer of every establishment shall send to the Inspector of the area concerned, a statement in the prescribed form together with such fees as may be prescribed, containing—

- (a) the name of the employer and the manager, if any;
- (b) the postal address of the establishment;
- (c) the name, if any, of the establishment; and
- (d) such other particulars as may be prescribed.

(2) On receipt of the statement and the fees, the Inspector shall, on being satisfied about the correctness of the statement, register the establishment in such manner as may be prescribed and shall issue in a prescribed form a registration certificate to the employer. The registration certificate shall be prominently displayed at the establishment.

(3) Within thirty days from the date mentioned in column 2 below in respect of an establishment mentioned in column 1, the statement together with fees shall be sent to the Inspector under sub-section (1):—

Establishments	Date from which the period of 30 days to commence
1	2
(i) Establishments existing on the date on which this Act comes into force.	The date on which this Act comes into force.
(ii) New establishments.	The date on which the establishment commences its work.

5. Change to be communicated to Inspector.—It shall be the duty of an employer to notify to the Inspector, in the prescribed form, any change in respect of any information contained in his statement under section 4 within seven days after the change has taken place. The Inspector shall, on receiving such notice and on being satisfied about its correctness, make the change in the register of establishments in accordance with such notices and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

6. Closing of establishment to be communicated to Inspector.—The employer shall, within ten days of his closing the establishment, notify to the Inspector in writing accordingly. The Inspector shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the registration certificate.

CHAPTER III—HOURS OF WORK

7. Daily and weekly hours.—(1) No employee in any establishment shall be required or allowed to work for more than ten hours in any day and fifty-four hours in any week:

Provided that the total number of hours of work including overtime shall not exceed eleven hours in any day except on days of stock-taking and preparation of accounts:

Provided further that the total number of overtime hours worked by an employee does not exceed fifty in a quarter.

(2) No child between the ages of twelve and fifteen years shall be allowed to work in any employment more than six hours in a day.

8. **Extra wages for overtime work.**—(1) Where an employee works in any establishment for more than ten hours in any day or for more than fifty-four hours in any week, he shall, in respect of such overtime work, be entitled to wages at the rate of one and a half times the ordinary rate of wages.

(2) For the purpose of this section "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles as the worker is for the time being entitled to, but does not include a bonus.

(3) The cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed as often as may be prescribed on the basis of maximum quantity of foodgrains and other articles admissible to a standard family.

9. **Interval for rest.**—The period of work of an employee in an establishment each day shall be so fixed that no period shall exceed five hours and that no such person shall work for more than five hours before he has had an interval for rest of at least half an hour.

10. **Spread over.**—The period of work of an employee in an establishment shall be so fixed that, inclusive of his interval for rest, it shall not be spread over more than twelve hours in any day from 1st October to 31st March and more than fourteen hours from 1st April to 30th September.

11. **Opening and closing hours.**—(1) No establishment shall, on any day, be opened earlier than and closed later than such hour as may be fixed by a general or special order of the State Government made under sub-section (2).

(2) The State Government may, after making an enquiry in the prescribed manner, by general or special order, fix the time at which any establishment or class of such establishment shall be opened or closed in any local area.

12. **Weekly Holiday.**—(1) Every establishment shall remain closed for one day of the week. The employer shall fix such day at the beginning of the year, notify it to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment. The employer shall not alter such day more often than once in three months, shall notify the alteration to the Inspector and make the necessary change in the notice in the shop or commercial establishment.

(2) Notwithstanding anything contained in sub-clause (1), the State Government may allow an establishment to remain open throughout the week if they are satisfied that the establishment employs additional staff for meeting the requirements of sub-clause (3) below.

(3) Without prejudice to the existing practice in establishments allowing one and half days' rest in a week, every employee in an establishment shall be given at least one whole day in a week as holiday for rest.

(4) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his establishment or any other place for any work in connection with the business of his establishment on a weekly holiday or on a day on which such establishment remains closed.

(5) No deductions shall be made from the wages of any employee in any establishment on account of the holiday given to him under sub-section (1). If any employee is employed on daily wages, he shall, nonetheless, be paid his wages for the weekly holidays.

CHAPTER IV—LEAVE WITH WAGES

13. Application of Chapter.—The provisions of this Chapter shall not operate to the prejudice of any rights to which an employee may be entitled under any other law or under the terms of any award, agreement or contract of services:

Provided that where such award, agreement or contract of service provides for a longer leave with wages or weekly holidays than provided in this Chapter, the employee shall be entitled to only such longer leave or weekly holidays as the case may be.

14. Annual leave with wages.—(1) Every employee who has worked for a period of two hundred and forty days or more in an establishment during a calendar year shall be allowed during the subsequent calendar year, leave with wages for number of days calculated at the rate of—

- (i) if an adult, one day for every twenty days of work performed by him during the previous calendar year;
- (ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

Explanation 1.—For the purpose of this sub-section—

- (a) any days of lay off, by agreement or contract, as permissible under the standing orders;
- (b) in the case of a female employee, maternity leave for any number of days not exceeding twelve weeks; and
- (c) the leave earned in the year prior to that in which the leave is enjoyed;

shall be deemed to be days on which the employee has worked in an establishment for the purpose of computation of the period of two hundred and forty days or more, but he shall not earn leave for these

Explanation 2.—The leave admissible under this sub-section shall be of all holidays whether occurring during or either at the end of the period of leave.

Employee whose service commences otherwise than on 1st January shall be entitled to leave with wages at the rate of clause (i) or, as the case may be, clause (ii) of section 14, if he has worked for two-thirds of the total number of days in the calendar year.

(3) If an employee is discharged or dismissed from service during the course of the year, he shall be entitled to leave with wages at the rates laid down in sub-section (1) or sub-section (2) entitling him to earn leave.

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If an employee does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2) as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child;

Provided further that an employee who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in sub-sections (8) and (9), shall be entitled to carry forward the unavailed leave without any limit.

(6) An employee may at any time apply in writing to the employer or to the manager of the establishment not less than fifteen days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof allowable to him during the calendar year:

Provided that the number of times in which leave may be taken during any year shall not exceed three.

(7) If an employee wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (6) and in such a case wages as admissible under section 17 shall be paid not later than fifteen days.

(8) For the purpose of ensuring continuity in work in an establishment, the employer, in agreement with the representatives of the employees therein chosen in the prescribed manner, may formulate a scheme in writing whereby the leave allowable under this section may be regulated.

(9) A scheme formulated under sub-section (8) shall be posted at convenient places in the premises of the establishment and shall be in force for a period of twelve months and may thereafter be renewed, with or without modification, for a further period of twelve months at a time by the employer in agreement with the representatives of the employees as specified in sub-section (8).

(10) An application for leave which does not conform to the provisions of sub-section (6) shall not be refused, in accordance with the scheme for the time being in force under sub-sections (8) and (9).

(11) If the employment of an employee terminates under sub-section (1) or sub-section (2),

terminated by the employer before he has taken the entire leave to which he is entitled, or if, having applied for and having not been granted such leave, the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under sub-section (1) in respect of the leave not taken, and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination, and where any employee quits his employment, on or before the next pay day.

(12) The unavailed leave of an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

15. Casual leave.—Every employee in an establishment during a calendar year shall be entitled to a maximum period of ten days' casual leave with pay subject to a limit of six days at any one time.

16. Wage during leave period.—(1) For the leave allowed to him under sections 14 and 15, an employee shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the employee of foodgrains and other articles.

(2) The cash equivalent of the advantage accruing through the concessional sale to the employee of foodgrains and other articles shall be computed, as often as may be prescribed, on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

(3) The State Government may make rules prescribing—

- (a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed; and
- (b) the registers that shall be maintained in an establishment for the purpose of securing compliance with the provisions of this section and section 8.

17. Payment of advance in certain cases.—An employee who has been allowed leave for not less than six days, in the case of an adult, and seven days in the case of a child, shall, on demand, before his leave begins, be paid the wages due for the period of leave allowed.

18. Mode of recovery of un-paid wages.—Any sum required to be paid by an employer under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936 (IV of 1936).

19. Power to make rules.—The State Government may make rules directing employers to keep registers containing such particulars as may be prescribed and requiring the registers to be made available for examination by Inspectors.

20. Power to exempt establishments.—Where the State Government is satisfied that the leave rules applicable to employees in an

establishment provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision, it may, by written order exempt the establishment from all or any of the provisions of this Chapter, subject to such conditions as may be specified in the order.

CHAPTER V—WAGES

21. Application and amendment of the Payment of Wages Act.—

(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (IV of 1936) herein referred to as “the said Act” the State Government may, by notification in the official Gazette, direct that subject to the provisions of sub-section (2), the said Act or any of the provisions thereof shall apply to all or any class of employees in establishments to which this Act applies.

(2) On the application of the provisions of the said Act to any establishment under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purposes of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

CHAPTER VI—EMPLOYMENT OF CHILDREN AND WOMEN

22. Prohibition of employment of children.—No child who has not completed the age of twelve be required or allowed to work in any establishment.

23. Employment of women—prohibition of employment during night.—No woman, or a child between the age of twelve and fifteen years, shall be required or allowed to work whether as an employee or otherwise in any establishment during night.

24. Prohibition of employment during certain periods.—No owner or manager of an establishment shall knowingly employ a woman, and no woman shall engage in employment in any establishment during the six weeks following the day on which she has delivered a child.

25. Right of absence in pregnancy.—(1) If any woman employed in an establishment who is pregnant gives notice either orally or in writing in the prescribed form to the employer that she expects to be delivered of a child within six weeks from the date of such notice, the employer shall permit her, if she so desires, to absent herself from work upto the day of her delivery:

Provided that the employer may, on undertaking to defray the cost of such examination, require the women to be examined by a qualified medical practitioner or midwife and if the women refuses to submit to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within six weeks, he may refuse such permission.

(2) The examination referred to in the proviso to sub-section (1) shall, if the women so desires, be carried out by a women.

26. Maternity leave.—The absence of a woman during the period she is entitled to maternity benefit under this Act or due to illness

medically certified to arise out of pregnancy or confinement shall be treated as authorised absence on leave.

27. Maternity benefit.—(1) Every women employed in an establishment, who has been continuously employed in that establishment or in establishments belonging to the owner of that establishment for a period of not less than six months preceding the date of her delivery, shall be entitled to receive and the employer shall be liable to make to her, a payment of a maternity benefit which shall be prescribed by the State Government for every day during the six weeks immediately preceding and including the day of her delivery and for each day of the six weeks following her delivery:

Provided that no such payment shall be made for any day on which she attends work and receives payment therefor during the six weeks preceding her delivery.

(2) The manner in which the maternity benefit shall be payable may be prescribed by the State Government.

28. Intervals for nursing the child.—Any women employed in an establishment who is delivered of a child shall, while she is nursing her child, be allowed half an hour twice a day during her working hours for this purpose in addition to regular intervals for rest.

29. Prohibition of dismissal during or on account of absence from work owing to confinement.—(1) When a woman absents herself from work under section 26, it shall be unlawful for the employer to dismiss her during or on account of such absence or to give notice of dismissal on such a day that the notice will expire during such absence.

(2) The dismissal of a woman at any time within six months before she is delivered of a child, if the woman, but for such dismissal, would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of that maternity benefit if the Inspector is satisfied that her dismissal was without sufficient cause.

30. Notices of discharge.—(1) No employee shall, without sufficient cause, be discharged from service unless and until one month's previous notice or one month's pay in lieu thereof has been given to him.

(2) In any case instituted for a contravention of the provisions of the last preceding sub-section, if a Magistrate is satisfied that an employee has been dismissed without reasonable cause, the Magistrate may, for reasons to be recorded in writing, award compensation to the employee to the extent of his two month's pay.

(3) The amount payable as compensation under this section shall be in addition to any fine payable under section 35.

(4) No person who has been awarded compensation under this section shall be at liberty to bring civil suit in respect of the same claim.

CHAPTER VII.—ENFORCEMENT AND INSPECTION

31. Enforcement and appointment of Inspectors.—The State Government may by notification appoint such persons or such class of persons as it thinks to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(2) The State Government may hand over the administration of this Act, and with it the power to appoint Inspectors, to local authorities generally or to any particular local authority.

32. Power of Inspector.—Subject to any rules made by the State Government in this behalf, an Inspector may, within the local limits for which he is appointed—

- (a) enter at all reasonable times and with such assistants, if any, being persons in the service of the Government or of any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment;
- (b) make such examination of the premises and of any prescribed registers, records and notices and take on the spot or otherwise evidence of any persons as he may deem necessary for carrying out the purposes of this Act and may take copies of such records; and
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

33. Inspector to be Public Servant.—Every Inspector appointed under section 31 shall be deemed to be a Public Servant within the meaning of section 21 of the Indian Penal Code, 1860.

34. Employer to produce registers, records etc. for inspection. Every employer shall on demand produce for inspection of an Inspector all registers, records and notices required to be kept under and for the purposes of this Act.

CHAPTER VIII.—OFFENCES, PENALTIES AND PROCEDURE

35. Penalties.—(1) Whoever contravenes any of the provisions of sections 4,5,6,7,9,10,11,12,13,14,15,16,24,25,26,27,29 and 30 shall, on conviction, be punishable with fine which for a first offence may extend from fifty rupees to one hundred rupees and for a second or any subsequent offence may extend to five hundred rupees.

(2) Whoever contravenes any of the provisions of section 8,17,22, 23, 28,34 and 38 shall, on conviction, be punishable with fine which may extend to fifty rupees.

36. Procedure.—(1) No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector appointed under section 31 or except with the previous sanction of the State Government or the local authority as the case may be.

(2) No court inferior to that of a Magistrate of the Second Class shall try any offence punishable under this Act or any rules or orders made thereunder.

37. Limitations of prosecutions.—No court shall take cognisance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

CHAPTER IX.—MISCELLANEOUS

38. Maintenance of registers and records and display of notices.—Subject to the general or special orders of the State Government, an employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate.

39. Saving of certain rights and privileges.—Nothing in this Act shall affect any rights or privileges which an employee in any establishment is entitled to on the date this Act comes into force under any other law, contract, custom or usage applicable to such establishment or any award, settlement or agreement binding on the employer and the employee in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

40. Application of the Workmen's Compensation Act, 1923.—The provisions of the Workmen's Compensation Act, 1923 (VIII of 1923) and the rules made thereunder shall *mutatis mutandis* apply to every employee of a shop or commercial establishment.

41. Immunity.—No suit, prosecution or other legal proceedings shall lie against any Inspector for any thing which is in good faith done or intended to be done under this Act.

42. Power to make rules.—(1) The State Government may, by notification in the official Gazette, make rules for the purposes of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (1), may provide in respect of the health, safety and welfare of employees.

(3) In making rules under this section the State Government may provide that a contravention of the rules shall be punishable with fine which may extend to fifty rupees.

(4) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

43. Repeal and Savings.—(1) On and from the date of commencement of this Act the Weekly Holidays Act, 1942 (XVIII of 1942) shall stand-repealed:

‘Provided that such repeal shall not affect the previous operation of that corresponding law, and subject thereto, anything done or any action taken in the exercise of any power conferred by or under the

corresponding law shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.

(2) All appointments made before such commencement under and for the purposes of any such law or enactment shall, except as otherwise directed under this Act be deemed to have been made under and for the purposes of this Act.

THE INDUSTRIAL DISPUTES AND THE INDUSTRIAL DISPUTES
(APPELLATE TRIBUNAL) AJMER AMENDMENT ACT, 1956

ACT No. V of 1956

An Act to amend the Industrial Disputes Act, 1947 (XIV of 1947) and the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950).

WHEREAS it is expedient to amend the Industrial Disputes Act, 1947 (XIV of 1947) and the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950) for the purposes hereinafter appearing:

BE it enacted by the Legislative Assembly of the State of Ajmer in the Seventh Year of the Republic of India as follows:—

1. Short title, commencement and interpretation.—(1) This Act may be called the Industrial Disputes and the Industrial Disputes (Appellate Tribunal) Ajmer Amendment Act, 1956.

(2) It shall come into force at once.

(3) The General Clauses Act, 1897 (X of 1897) shall apply for the interpretation of this Act as it applies for the interpretation of a Central Act.

2. Amendment of section 2 of Act XIV of 1947.—In section 2 of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act),

(i) after clause (aa) the following new clauses shall be inserted, namely:—

“(aaa) “arbitration proceeding” means—

(i) any proceeding under Chapter III A of this Act before an arbitrator,

(ii) any proceeding before an Industrial Tribunal in arbitration;

(aaaa) “arbitrator” means an arbitrator to whom a dispute is referred for arbitration under the provisions of Chapter III A of this Act and includes an umpire;”

(ii) for clause (b) the following shall be substituted, namely:—

“(b) “award” means an interim, final or supplementary determination by an Industrial Tribunal of any industrial dispute or of any question relating thereto, or by an arbitrator in arbitration proceedings under Chapter IIIA;”

(iii) after clause (eee) the following new clause shall be inserted, namely:—

“(eeee) “member” means a person who is an ordinary member of a Union and who has paid a subscription of not less than two annas per month:

Provided that no person shall at any time be deemed to be a member if his subscription is in arrears for a period of three months or more next preceding such time;”

(iv) after clause (oo) the following new clauses shall be inserted, namely:—

“(000) “Registrar” means a person for the time being appointed to be the Registrar of Unions under this Act and includes, in respect of such powers and duties of the Registrar as may be conferred and imposed on him, an Assistant Registrar of Unions;

“(0000) “Representative Union” means a union for the time being registered as a Representative Union under this Act;”

(v) after clause (rr) the following new clause shall be inserted, namely:—

“(rrr) “Union” means a trade union of employees registered under the Indian Trade Unions Act, 1926 (XVI of 1926);”

(vi) in clause (s) after the words “during that dispute” the words “or any person employed by a contractor to do any work for him in the execution of a contract with an employer” shall be inserted.

3. Insertion of section 3A in Act XIV of 1947.—After section 3 of the said Act, the following new section shall be inserted, namely:—

“3A. Registrar and Assistant Registrars.—(1) The State Government shall, by notification in the official Gazette, appoint a person to be the Registrar of Unions for the purposes of this Act for the whole State.

(2) The State Government may, by similar notification, appoint a person to be the Assistant Registrar of Unions for any local area and may, by general or specific order, confer on such person all or any of the powers of the Registrar of Unions under this Act.”

4. Insertion of Chapter II A after Chapter II of Act XIV of 1947.—After Chapter II of the said Act, the following new Chapter shall be inserted, namely:—

“CHAPT 2 IIA—REGISTRATION OF UNIONS

9A. Maintenance of registers.—It shall be the duty of the Registrar to maintain in such form as may be prescribed, a register of unions registered by him under the provisions of this Act.

9B. Application for Registration.—Any union, which has for the whole of the period of three months next preceding the date of its so applying under this section, a membership of not less than fifteen per cent. of the total number of workmen employed in the unit of an industry, may apply in the prescribed form to the Registrar for registration as a Representative Union.

9C. Registration of Unions.—On receipt of an application from a union for registration under section 9B and on payment of the fee prescribed, the Registrar shall, if after holding such inquiry as he deems fit he comes to the conclusion that the conditions requisite for registration specified in the said section are satisfied and that the union is not otherwise disqualified for registration, enter the name of the union in the appropriate register maintained under section 9A and issue a certificate of registration in such form as may be prescribed:

Provided firstly, that where two or more unions fulfilling the conditions necessary for registration under this Act apply for registration in respect of the same unit of an industry, the union having the largest membership of employees employed in the unit of the industry shall be registered; and secondly, that the Registrar shall not register any union if he is satisfied that the application for its registration is not made bonafide in the interest of the workmen but is made in the interest of the employers to the prejudice of the interests of the workmen.

9D. Cancellation of Registration.—The Registrar shall cancel the registration of a union—

(a) if after holding such inquiry, if any, as he deems fit, he is satisfied—

(i) that it was registered under mistake, misrepresentation or fraud; or

(ii) that the membership of the union has for a continuous period of three months fallen below the minimum required under section 9B for its registration:

Provided that where a strike or a closure, not being an illegal strike or closure under this Act, in a unit of industry involving more than one-third of the workmen in the unit of the industry has extended to a period exceeding fourteen days in any calendar month, such month shall be excluded in computing the said period of three months:

Provided further that the registration of a union shall not be cancelled under the provisions of this sub-clause unless its membership at the time of the cancellation is less than such minimum; or

(iii) that the registered union is not being conducted bonafide in the interests of workmen but in the interests of

employers to the prejudice of the interests of workmen;
or

(iv) that it has instigated, aided or assisted the commencement or continuation of an illegal strike;

(b) if its registration under the Indian Trade Unions Act, 1926 (XVI of 1926) is cancelled.

9E. *Registration of another union in place of existing registered union.*—(1) If at any time any union (hereinafter in this section referred to as “applicant union”) makes an application to the Registrar for being registered in place of the union (hereinafter in this section referred to as “representative union”) for a unit of an industry on the ground that it has a larger membership of workmen employed in such units of the industry, the Registrar shall call upon the representative union by a notice in writing to show cause within one month of the receipt of such notice why the applicant union should not be registered in its place. An application made under this sub-section shall be accompanied by such fee as may be prescribed.

(2) The Registrar shall forward to Labour Commissioner a copy of the said application and notice.

(3) If, on the expiry of the period of notice under sub-section (1), after holding such inquiry as he deems fit, the Registrar comes to the conclusion that the applicant union complies with the conditions necessary for registration specified in section 9B and that membership was, during the whole of the period of three months immediately preceding the date of the application under this section, larger than the membership of the representative union, he shall, subject to the provisions of section 9B, register the applicant union in place of the representative union.

(4) Every application made under this section shall be published in the prescribed manner not less than 14 days before the expiry of the period of notice under sub-section (1).

9F. *Application for re-registration.*—(1) Any union the registration of which has been cancelled on the ground that it was registered under a mistake or on the ground specified in sub-clause (ii) of clause (a) of section 9D may, at any time after three months from the date of such cancellation and on payment of such fees as may be prescribed, apply for re-registration. The provisions of sections 9B and 9C shall apply in respect of such application.

(2) A union the representation of which has been cancelled on any other ground shall not, save with the permission of the State Government, be entitled to apply for re-registration.

9G. *Appeal to Industrial Tribunal from order of Registrar cancelling registration.*—(1) Any party to a proceeding before the Registrar may, within 30 days from the date of an order passed by the Registrar under this Chapter, appeal against such order to the Industrial Tribunal:

Provided that the Industrial Tribunal may, for sufficient reason, admit any appeal made after the expiry of such period.

(2) The Industrial Tribunal may admit an appeal under sub-section (1) if on a perusal of the memorandum of appeal and the decision appealed against, it finds that the decision is contrary to law or otherwise erroneous.

(3) The Industrial Tribunal in appeal may confirm, modify or rescind any order passed by the Registrar and may pass such consequential orders as it may deem fit. A copy of the orders passed by the Industrial Tribunal shall be sent to the Registrar.

9H. *Publication of orders.*—Every order passed under section 9C, 9D or 9E and every order passed in appeal under section 9G shall be published in the prescribed manner."

5. Insertion of Chapter IIIA after Chapter III of Act XIV of 1947.—After Chapter III of the said Act the following new Chapter shall be inserted, namely:—

"CHAPTER IIIA—ARBITRATION

10A. *Submission.*—(1) Any employer and a representative union, or in the absence of any registered representative union, any other registered union under the Indian Trade Unions Act, 1926 (XVI of 1926) which is a representative of employees may, by a written agreement, agree to submit any present or future industrial dispute or class of such disputes to the arbitration of any person whether such arbitrator is named in such agreement or not, such agreement shall be called a submission.

(2) Such submission may provide that the dispute shall be referred to the arbitration of an Industrial Tribunal.

(3) A copy of every such submission shall be sent to the Registrar who shall register it in the register to be maintained for the purpose and shall publish it in such manner as may be prescribed.

10B. *Submission when revocable.*—Every submission shall in the absence of any provision to the contrary contained therein be irrevocable.

Provided that a submission to refer future disputes to arbitration may at any time be revoked by any of the parties to such submission by giving the other party three months notice in writing;

Provided further that before the expiry of the said period of three months the parties may agree to continue the submission for such further period as may be agreed upon between them.

10C. *Proceedings in arbitration.*—The proceedings in arbitration under this Chapter shall be in accordance with the provisions of the Arbitration Act, 1940 (X of 1940) in so far as they are applicable, and the powers which are exercisable by a Civil Court under the said provisions shall be exercisable by the Industrial Tribunal.

10D. *Special case to be stated to Industrial Tribunal.*—The arbitrator may refer any question of law arising before him in any proceedings under this Act to the Industrial Tribunal for its decision. Any award made by the arbitrator shall be in accordance with such decision.

10E. *Award by Arbitrator.*—The arbitrator shall, after hearing the parties concerned, make an award which shall be signed by him.

10F. *Dispute to be referred to Industrial Tribunal if no Arbitrator appointed.*—Notwithstanding anything contained in this Chapter, if no provision has been made in any submission for the appointment of an arbitrator, or where by reason of any circumstance no such arbitrator is appointed, such dispute may be referred by the Government for adjudication by the Industrial Tribunal.

10G. *State Government may refer Industrial Dispute to Industrial Tribunal for adjudication.*—(1) Notwithstanding anything contained in this Chapter, the State Government may, at any time, refer an industrial dispute for adjudication by the Industrial Tribunal if on a report made by the Conciliation Officer or otherwise it is satisfied that—

(A) by reason of the continuance of the dispute—

- (a) a serious outbreak of disorder or a breach of the public peace is likely to occur; or
- (b) serious or prolonged hardship to a large section of the community is likely to be caused; or
- (c) the industry concerned is likely to be seriously affected or the prospects and scope for employment therein curtailed; or

(B) the dispute is not likely to be settled by other means; or

(C) it is necessary in the public interest to do so.

(2) When the Government makes a reference to the Industrial Tribunal for adjudication of any industrial dispute any submission or any award of an arbitrator with regard to that industrial dispute shall stand as cancelled.

10H. *Notice of award to parties.*—(1) The arbitrator or Industrial Tribunal as an arbitrator, as the case may be, shall forward copies of the award made by him or it to the parties, the Labour Commissioner, the Registrar and the Government.

(2) On receipt of such award, the Registrar shall enter it in the register kept for the purpose.

10I. The arbitration proceeding shall be deemed to have been completed when the award is published under section 17."

6. Amendment of section 17 of Act XIV of 1947.—In section 17 of the said Act after the words "the award of a Tribunal" the words "or an arbitrator" shall be inserted.

7. Insertion of section 20A after section 20 of Act XLVIII of 1950.—After section 20 of Act XLVIII of 1950, the following section shall be added:—

"20A. Application of section 20 to settlements before Conciliation Officers, Boards of Conciliation or an award by Arbitrator.—The provisions of section 20 shall apply *mutatis mutandis* to the settlement made by the Conciliation Officers or Boards of Conciliation,

appointed or constituted under the Industrial Disputes Act, 1947 or an award by the Arbitrator, and for the purposes of section 20 such settlement or award shall be deemed to be awards or decisions of Industrial Tribunals."

THE AJMER SHAMLAT DEH (REGULATION) ACT, 1956

ACT No. VI OF 1956.

An Act to regulate the rights of Shamlat Deh in the State of Ajmer

Be it enacted by the Legislative Assembly of the State of Ajmer in the Seventh Year of the Republic of India as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Ajmer Shamlat Deh (Regulation) Act, 1956.

(2) It extends to the whole of the State of Ajmer.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. **Interpretation.**—(1) In this Act, unless the context otherwise requires —

(a) "appointed date" in the case of a village which is subject to the jurisdiction of a panchayat at the commencement of this Act, shall be the date of such commencement; and in other cases, the date on which a panchayat with jurisdiction over that village is constituted;

(b) "inhabitant" in relation to a village, means a person, whether a proprietor or a non-proprietor, who ordinarily resides in the village:

Provided that a person shall not be deemed to cease to so reside merely by reason of his temporary absence from the village or his absence on account of employment elsewhere;

(c) "Panchayat" means a panchayat established under the Ajmer State Panchayat Act, 1954 (Ajmer Act VII of 1954);

(d) "prescribed" means prescribed by rules made under this Act;

(e) "Shamlat Deh" means any land in a village which is vested in a village proprietary body and is recorded as vesting in such body in the revenue records;

(f) "State Government" means the Chief Commissioner of the State of Ajmer;

(g) "Village" means any local area recorded as a village in the revenue records of the State of Ajmer or any other local area which the State Government may, by general or special order, declare to be a village;

- (h) any word or expression used herein and not defined but defined in the Ajmer Tenancy and Land Records Act, 1950 (XLII of 1950) or the Ajmer Land and Revenue Regulation, 1877 (II of 1877) shall have the meaning respectively assigned to it in the said Act or Regulation.

(2) The General Clauses Act, 1897 (X of 1897) applies for the interpretation of this Act as it applies for the interpretation of a Central Act.

3. Vesting of rights in panchayats.—Notwithstanding anything to the contrary contained in any law for the time being in force or in any agreement, instrument, custom or usage or in any decree or order of any Court or other authority, all rights, title and interest whatever in any land which is included in the Shamlat Deh including non-partitioned vacant sites shall, on the appointed date, vest in the panchayat having jurisdiction over the village in which such land is situated:

Provided that this shall not affect the right, title and interest, whether proprietary or tenancy, of any person who has acquired the same either under the Ajmer Land Revenue Regulation II of 1877 or under the Ajmer Tenancy and Land Records Act, 1950, in the Shamlat Deh.

4. Regulation of use or disposal of lands.—All lands vested in a panchayat by virtue of the provisions of this Act shall be utilised or disposed of by the panchayat for the benefit of the inhabitants of the village concerned, in the manner prescribed.

5. Saving of existing possession.—(1) A person who has, on or before the appointed date, acquired the tenancy rights under any law in any land which vests in a panchayat under the provisions of this Act shall, as from the appointed date, become a tenant of the panchayat concerned on such terms and conditions as may be determined by the panchayat, subject to any rules which may be made in this behalf.

(2) Where, on the appointed date, on any land which vests in a panchayat under the provisions of this Act—

- (a) any person, other than a person referred to in sub-section (1), is in cultivating possession and his uncut and un-gathered crops are standing thereon, he shall not be ejected from such land unless crops have ripened and he has been allowed reasonable time to harvest them;
- (b) a person has built or erected any house or any other structure, he shall be allowed by the panchayat to retain possession of the same on such terms and conditions as may be determined by the panchayat, subject to any rules which may be made in this behalf.

6. Utilisation of income.—Any income accruing from the use and occupation of the lands vested in a panchayat under the provisions of this Act shall be credited to the panchayat fund and shall be utilised in the manner prescribed.

7. Appeal.—Any person aggrieved by any decision made by a panchayat under section 3 or section 5 of this Act may, within 60 days, appeal to the Collector, Ajmer, whose order thereon shall be final.

8. Bar of compensation.—No person shall be entitled to any compensation for any loss suffered or alleged to have been suffered as a result of the coming into force of this Act.

9. Bar of jurisdiction of Civil Court.—No Civil Court shall entertain any suit or proceeding arising out of the operation of this Act, and no injunction in respect of any action taken or to be taken under the provisions of this Act shall be granted by any Civil Court or other authority.

10. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against any person for any thing which is in good faith done or intended to be done under this Act or the rules made thereunder.

11. Power to make rules.—(1) The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the principles on which, the extent to which and the manner in which, the inhabitants of the village shall make use of the lands vested in a panchayat;
- (b) the maximum and minimum area to be leased to any single person;
- (c) the forms of the books to be kept, the entries to be made therein and the statistics and the accounts to be compiled under this Act;
- (d) the terms and conditions on which the use and occupation of any land vested in a panchayat is permitted;
- (e) the terms and conditions on which the possession of the houses or structures are allowed to be retained;
- (f) the manner in which and the terms and conditions on which the rent is to be recovered by a panchayat in respect of the agricultural tenancies;
- (g) the manner and circumstances in which any land may be disposed of, transferred or sold;
- (h) the purposes for which any land may be given free of charge;
- (i) the payment by the panchayat of the land revenue, rates, cesses or other Government dues in respect of the lands vested in it;
- (j) any other matter which is to be or which may be prescribed.

P. N. SETH,
Secretary to the Government of Ajmer.